

of the procurement integrity requirements immediately to the contracting officer and the Office of the Inspector General. The contracting officer shall follow the procedures in FAR 3.104-11 regarding such violations.

Subpart 603.2—Contractor Gratuities to Government Personnel

603.203 Reporting suspected violations of the Gratuities clause.

DOS personnel shall report immediately and in writing any apparent or suspected violation of the clause at FAR 52.203-3, Gratuities, in connection with any DOS operation. The report shall be made to the contracting officer and the Assistant Inspector General for Investigations. The report shall identify the individuals involved, outline the events, acts, or conditions which indicate the apparent violation occurred, and include all pertinent documents. The Assistant Inspector General for Investigations shall review the report for completeness and accuracy and shall make a preliminary decision whether to proceed with a full investigation. The Assistant Inspector General for Investigations shall provide the written decision to the individual who made the report and the contracting officer. If the decision is to proceed with an investigation, copies of the decision shall also be provided to the head of the contracting activity, the Procurement Executive, and the Office of the Legal Adviser.

[53 FR 26163, July 11, 1988, as amended at 59 FR 66754, Dec. 28, 1994]

603.204 Treatment of violations.

(a) The Procurement Executive is the agency head's designee for the purposes of FAR 3.204.

(b) *Procedures.* Upon a decision to proceed with an investigation of an alleged violation of the Gratuities clause, the Assistant Inspector General for Investigations shall provide to the contractor a written notice by certified mail, return receipt requested. The notice shall present the findings of the decision and shall establish a schedule, including location, for an investigative hearing for the purposes prescribed in FAR 3.204(b). As determined necessary

by the Assistant Inspector General for Investigations, follow-up hearings may be scheduled. Upon completion of the investigation, the Assistant Inspector General for Investigations shall provide to the Procurement Executive a report and recommendation, together with all pertinent documentation.

(c) In addition to the requirements of FAR 3.204(c), when the Procurement Executive determines that a violation has occurred, the Procurement Executive shall so notify the Assistant Inspector General for Investigations. The Assistant Inspector General for Investigations shall then notify the individual who made the report, the Office of the Legal Adviser, and, if appropriate, the Department of Justice.

Subpart 603.3—Reports of Suspected Antitrust Violations

603.303 Reporting suspected antitrust violations.

(a) DOS employees are obligated to report immediately and in writing any apparent or suspected antitrust violation, as described in FAR 3.303.

(b) The report shall outline the events, acts, or conditions which indicate the apparent violation and shall include all pertinent documents.

(c) The report shall be made to or by the contracting officer, who shall review it for completeness and accuracy and forward it through the head of the contracting activity, to the Office of the Legal Adviser, with a copy to the Procurement Executive. The Office of the Legal Adviser shall provide to the U.S. Attorney General a report on each suspected violation, with single copies to the head of the contracting activity and the Procurement Executive.

[53 FR 26163, July 11, 1988, as amended at 59 FR 66754, Dec. 28, 1994]

Subpart 603.4—Contingent Fees

603.408 Evaluation of the SF 119.

603.408-1 Responsibilities.

In carrying out responsibilities prescribed in FAR 3.408-1, the contracting

officer shall obtain advice from the Office of the Legal Adviser as to the legality and general propriety of the relationship disclosed thereon. Also, the contracting officer may request the Office of the Inspector General to develop further information if the facts available are deemed insufficient for a proper decision. After reviewing and evaluating all the information obtained, the contracting officer shall render a written decision that shall be included in the contract file, and shall provide a copy of the decision to the Procurement Executive.

Subpart 603.6—Contracts with Government Employees or Organizations Owned or Controlled by Them

603.601 Policy.

(a) It is Department policy not to award contracts to Federal employees, or businesses substantially owned or controlled by Federal employees.

[59 FR 66754, Dec. 28, 1994]

603.602 Exceptions.

The Procurement Executive is the agency head's designee for the purposes of FAR 3.602.

603.670 Solicitation provision and contract clause.

The contracting officer shall insert the clause at 652.203-70, Prohibition Against the Use of Federal Employees, in all solicitations and contracts, and the provision at 652.203-71, Certification Regarding Federal Employment, in all solicitations.

[59 FR 66754, Dec. 28, 1994]

Subpart 603.7—Voiding and Rescinding Contracts

603.704 Policy.

The Procurement Executive is the agency head's designee for the purposes of FAR 3.704.

[59 FR 66754, Dec. 28, 1994]

603.705 Procedures.

The Procurement Executive is the agency head's designee for the purposes of FAR 3.705.

[59 FR 66754, Dec. 28, 1994]

PART 604—ADMINISTRATIVE MATTERS

Subpart 604.2—Contract Distribution

Sec.

604.202 Agency distribution requirements.

Subpart 604.4—Safeguarding Classified Information Within Industry

604.404 Contract clause.

604.404-70 DOSAR contract clauses.

Subpart 604.70—Contract Review

604.7001 Policy.

604.7002 Procedures.

AUTHORITY: 40 U.S.C. 486(c); 22 U.S.C. 2658.

SOURCE: 53 FR 26163, July 11, 1988, unless otherwise noted.

Subpart 604.2—Contract Distribution

604.202 Agency distribution requirements.

As necessary, the contracting officer shall distribute reproduced copies of the signed contract or modification to those officers/offices involved in contract administrative support functions, e.g., the Contracting Officer's Representative; the requirements office; the Despatch Agent or other receiving activity, particularly if it is the initial point of contact for receipt of goods or services; and each post or office where the contract will be performed. Where required by the laws of a foreign country, the original copy of the contract or modification shall be retained at the overseas post. Copies of contracts and modifications awarded as small business or 8(a) set-asides shall be sent to A/SDBU.

[53 FR 26163, July 11, 1988, as amended at 59 FR 66754, Dec. 28, 1994]

**Subpart 604.4—Safeguarding
Classified Information Within
Industry**

604.404 Contract clause.

604.404-70 DOSAR contract clauses.

(a) The contracting officer shall insert the clause at 652.204-70, Security Requirements, in solicitations and contracts performed outside the United States to the extent the contract involves access to classified information ("Confidential," "Secret," or "Top Secret") or access to administratively controlled information ("Limited Official Use"). Contractors or contract employees that are not U.S. citizens shall not have access to classified or administratively controlled information.

(b) The contracting officer shall insert the clause at 652.204-71, Security Requirements—Personnel, in solicitations and contracts performed outside the United States.

Subpart 604.70—Contract Review

604.7001 Policy.

The contracting officer shall review each proposed contractual document and its supporting file for completeness and accuracy. Each contract file shall contain all pertinent information applicable to the proposed action. Each contract file should be in sufficient detail to permit reconstruction of all significant events by any subsequent reviewer without referral to the individual responsible for the contractual action.

[53 FR 26163, July 11, 1988; 53 FR 36461, Sept. 20, 1988]

604.7002 Procedures.

(a) Prior to issuance of a solicitation or a solicitation amendment which constitutes a substantive change, award of a contract, or execution of a contract modification, any of which is estimated to exceed the thresholds indicated below, the contracting officer shall forward the proposed contractual action to A/OPE for review. For contract modifications, the contracting officer shall submit such actions in accordance with 643.102-70(b). Modifications exercising contract options,

where the options were part of the original solicitation/contract which was reviewed and approved by A/OPE, are exempt from this review requirement:

(1) For domestic contracting activities, all actions over \$5,000,000. There is no review threshold when the contracting activity's quality assurance plan has been approved by A/OPE;

(2) For overseas posts with contracting officers who have been issued standard name warrants, all actions over \$250,000, with the exception of those actions for local guard services, which require review at \$100,000 and above; and

(3) For overseas posts with contracting officers who have been issued provisional name warrants, all actions over \$100,000.

(4) When calculating the threshold for application of paragraphs (a)(1) through (3) of this section, include the value of the base year plus all option years.

(b) A/OPE shall document the scope and extent of the review and shall submit written recommendations to the contracting officer on each proposed contract action reviewed. In the event the contracting officer and the reviewer cannot reach agreement on the recommendation(s), the contracting officer shall prepare an appeal file to be transmitted to the Procurement Executive. The appeal shall be approved by an individual one management level above the contracting officer prior to its transmission to the Procurement Executive. A resolution shall be worked out between the contracting activity and the Procurement Executive. For purposes of this section, the officer who may transmit the appeal file to the Procurement Executive shall not be the same individual who will sign the contractual document. For overseas posts, where the contracting officer is the head of the contracting activity, the approval authority shall be the Principal Officer.

(c) For postaward reviews, A/OPE shall document the scope and extent of the review and shall submit the results of its findings to the contracting officer for appropriate action.

604.7002

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(d) The Procurement Executive may delegate or waive the review requirements. In such instances, the Procurement Executive shall provide to each

head of the contracting activity, as appropriate, a written delegation or waiver of these requirements.

[53 FR 26163, July 11, 1988, as amended at 59 FR 66754, Dec. 28, 1994]

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 605—PUBLICIZING CONTRACT ACTIONS

Subpart 605.2—Synopsis of Proposed Contract Actions

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605.202 Exceptions.

605.202-70 Foreign acquisitions.

605.207 Preparation and transmittal of synopses.

605.207-70 Acquisitions available from only one responsible source.

Subpart 605.3—Synopses of Contract Awards

605.303 Announcement of contract awards.

Subpart 605.4—Release of Information

605.403 Requests from members of Congress.

605.404 Release of long-range acquisition estimates.

605.404-1 Release procedures.

Subpart 605.5—Paid Advertisements

605.502 Authority.

AUTHORITY: 40 U.S.C. 486(c); 22 U.S.C. 2658.

SOURCE: 53 FR 26164, July 11, 1988, unless otherwise noted.

Subpart 605.2—Synopsis of Proposed Contract Actions

605.202 Exceptions.

605.202-70 Foreign acquisitions.

(a) *Policy.* In accordance with a Determination and Findings issued by the Assistant Secretary of State for Administration, the requirement for advance CBD notices for the Department's foreign acquisitions awarded by overseas contracting activities is waived. CBD notices may be published for any acquisition where the contracting officer decides that publication would be in the Department's best interests. This waiver shall remain in effect until June 15, 1998.

(b) *Procedures.* Contracting officers at overseas contracting activities are not required to prepare an individual determination and findings to document

their decision to waive the CBD notice requirements.

(c) *Competition requirements.* Nothing in this section waives the requirement to obtain competition as required by FAR part 6 and DOSAR (48 CFR) part 606. Competition, including the use of written solicitation, shall be obtained in all cases to the extent feasible. If there are known U.S. firms or firms with U.S. affiliations in local residence capable of supplying the required supplies or services, the contracting activity shall ensure that those firms are included in the source list for the acquisition.

(d) *Policy exclusion.* CBD waiver authority does not apply to local guard service contracts that exceed \$250,000. Local guard service contracts that exceed \$250,000 shall be synopsisized in the CBD. Option year prices shall be included when computing the applicability of this threshold.

[60 FR 39662, Aug. 3, 1995]

605.207 Preparation and transmittal of synopses.

(a)(1) Contracting officers at overseas posts shall submit synopses of proposed contract actions to A/OPE for electronic transmittal to the CBD.

[59 FR 66755, Dec. 28, 1994]

605.207-70 Acquisitions available from only one responsible source.

In addition to the information required at FAR 5.207, each synopsis of a proposed acquisition from only one responsible source shall include descriptions of the specific qualifications or capabilities required to perform the work and the information a potential source must submit.

Subpart 605.3—Synopses of Contract Awards

605.303 Announcement of contract awards.

(a) Contracting officers shall make information available on awards over \$10 million to the Office of Legislative